APPENDIX A

In the

DISTRICT COURT OF THE UNITED STATES
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Cause No. 8072 — Civil

UNITED STATES OF AMERICA,
Plaintiff,

v.

CERTAIN LAND IN THE CITY AND COUNTY OF DALLAS, STATE OF TEXAS, and O. E. PADGITT ET AL.,
Defendant.

TRANSCRIPT OF PRE-TRIAL PROCEEDINGS

BE IT REMEMBERED that on the 14th of March, 1960, before the Honorable Joe E. Estes, United States District Judge, the following proceedings were had in the above styled and numbered cause:

APPEARANCES:

W. B. WEST, III, United States District Attorney,
Forth Worth, Texas, and
Mr. Fred L. Woodlock, His Assistant,

Appearing for the United States of America;

STRASBURGER, PRICE, KELTON, MILLER & MARTIN,
Dallas, Texas,
By Mr. H. W. Strasburger, and
Mr. Royal Brin,

Appearing for the Defendants, Robert Jayson and wife, Louise Jayson, William K. Jayson and wife, Annette Jayson, Robert Jayson Manufacturing Company;

LOCKE, PURNELL, BOREN, LANEY & NEELY, Dallas, Texas,
By Mr. Wayne O. Woodruff,

Appearing for the Defendants, Mrs. Esther Zweig, Republic National Bank of Dallas, Trustee, Mrs. Esther Zweig & Olean, a partnership, and Mrs. Lydie H. Bartholow;

ELDRIDGE, GOGGANS, DAVIDSON & SILVERBERG, Dallas, Texas,
By Mr. M. Sims Davidson,

Appearing for the Defendants, Herbert Stehberg, Inc., Frank Brandt, Inc., and Lind Novelty Company;

MR. MELVIN YONACK, Dallas, Texas,

Appearing for Defendant, Rose Manufacturing Company;

OSTER & KAUFMAN, Dallas, Texas,
By Mr. Stanley M. Kaufman,

Appearing for Defendant, Dallas Handbag Company;

MR. EMIL CORENBLETH, Dallas, Texas

Appearing for the Defendants, Clare Dress Company of Texas, Inc., and Gall Novelty Company, Inc.;

SANER, JACK, SALLINGER & NICHOLS, Dallas, Texas, By Mr. H. Louis Nichols,

Appearing for Defendant, James T. Padgitt.

PROCEEDINGS

THE COURT: Now, we will come to the motion of Gall Novelty Company to set aside the order permitting Jayson and Jayson to withdraw $171,880 filed March 12, 1959.

Wait a minute.

(Discussion off of the record.)

THE COURT: I will now rule on this. Upon careful consideration of the record in this cause, the Court is of the opinion that the order permitting Robert Jayson and William K. Jayson and their wives to withdraw $171,880 should be denied. If the sum of $19,120 is not sufficient under the laws of the United States, any amount recovered by those movants, lessees of the Jaysons, is recoverable against the Government of the United States, and they stand amply able to respond to any judgment with six percent interest from the date of taking, and therefore, the administrative estimate of $19,120 is not binding on them in any way, and there is no reason in financial security to order money taken back from the Jaysons that they have taken down or to go back of that order. That order you will submit for entry.

No. 2: Plaintiff's motion for judgment on the pleadings or for summary judgment as for its right and authority to condemn Parcel No. 2 is granted. The Court takes judicial knowledge of the authorities cited in the complaint of the

United States of America filed in this cause and particularly Title 40, Section 257, relating to the condemnation of realty for sites or other uses, any other officer of the Government, authorized to produce for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General shall upon every application cause proceedings to be commenced for the condemnation of the property. The provisions of Title 40, Section 258(a) of the United States Code with reference to taking for public use, setting forth the authority and procedure for such taking, and the compensation with interest at six percent from the date of taking. Title 40, Section 352 next for the planning of Federal public buildings and the acquisition by the Administrator of General Services, authorized to acquire by purchase, condemnation, donation, exchange or otherwise, sites or additional sites for public buildings. Title 40, Section 356, lease-purchase contracts, authority to procure space. Whenever the Administrator of the General Services determines the needs. By negotiating and entering into purchase contracts, the terms of which shall not be less than ten nor more than twenty-five years, which provides that the title to the property shall vest in the United States, terms and conditions stipulated in each of the contracts. 40(e), congressional approval, that no appropriations shall be made for purchase contract projects, which have not been approved by resolutions adopted by the Committees on Public Works of the Senate and the House, respectively, within three years after July 22, 1954. Also provisions of Title 5, Section 630(b), transferring the affairs of the Federal Works Agency to the Administrator of General Services. 69 Statutes 458, providing the appropriation for sites and planning, purchase contract, and public buildings projects. General Services Administration appropriation is 72 Statutes 1066. Sites and expenses for public building projects. And the two resolutions, one of the House and one of the Senate, that are cited in the motion, the resolutions of the House of July 19, 1956, and of the Senate, July

20, 1956, for the project in question, which is done pursuant to provisions of Section 101 of Public Law 519, 83rd Congress, for a court house and federal building of Dallas, Texas, a description of which is attached, and for this reference made a part hereof is approved, and then pursuant to the provisions of Title 1 of Public Law 519, 83rd Congress, Federal Office Building at Dallas, Texas, is approved, both resolutions reading so.

Now, that gets the lawsuit down to the issue of just compensation. You will prepare this order to show this disposition of this motion, granted.

All right. Now, the motion to limit depositions: I have read the briefs, read the motions, some of the authorities, sufficient in my opinion with my prior experience with these rules to rule on them without benefit of oral argument. So far as I am concerned, I am satisfied that you presented as concisely as you could here; you could add nothing to it with oral argument.

MR. WEST: We don't need anything other than what we stated in our brief.

THE COURT: All right. Now, here is what: I will take up the motion with respect to the oral deposition and interrogatories in this way. Now, there are three categories of questions in both oral depositions and the written interrogatories which are objected to, *and since this lawsuit is confined to the issue of just compensation, I am going to take up and rule on these categories as follows: The first group of interrogatories and the issues, questions that are intended in the depositions, are objected to of this category detail the factors which entered into the decision of the Administrator of the General Services to select this particular property as a public building site. That is category No. 1. I consider that as having never been committed to the Courts.* The Constitution of the United States provides that the legislative branch of the Government shall pass laws and create courts, inferior to the Supreme Court; they shall pass all laws necessary to carry out the legislative authority

vested in them in that Constitution by its terms. Then, they provide in the Fifth Amendment to the Constitution that just compensation shall be made for the taking of private property for public use. The law has long been that the legislative branch of the Government, for the purposes of carrying out its laws, may delegate functions such as the selection and negotiation for purchase of and condemnation of property by an executive appointee, in this case, the Director of the General Services Administration; so having done that, the Courts uniformly hold that such matters are no proper subject of review by the Courts, and certainly that is true in a condemnation case. Now, for that reason, those objections in category one will be sustained.

Now, there is a category two dealing with the interrogatories to the Government's appraisers, and I am of the opinion that the ruling I am going to make with respect to the names of all witnesses of all parties, which is going to be ordered at this Pre-Trial to be given under Rule 16, 4 and 6, of the Federal Rules of Civil Procedure provided for the limitation of certain witnesses and for any other order that will aid in the disposition of the action. With that ruling, I am going to sustain the objections to the appraisals and, of course, naturally, the documents pertaining to them, the documents being nothing but a compilation of expert work that I am not going to require either party in this proceeding to give to the other. I think that the extent to which I can wisely and properly go in that direction is that I can request both sides of this controversy to submit to me in camera for my inspection their respective valuations of this property. I won't do that unless upon request and agreement by both parties for the reason that when I am on the outpost of procedure, which I am there, and assuming great personal responsibility, I want it to be a matter requested by Counsel. You know whether you want to submit those matters or not. The reason the Committee on Protracted Cases of the Judicial Conference of the United States published, as you have all read, this handbook on protracted cases and the section of it that dealt with condem-

nation, which was done largely by Judge Carter of the Southern District of California, and about which he wrote in the American Jury Journal, the reason why we — I remember that study group — the reason why we did that was because we felt like we had inherent power to do anything that was just under the law and to have a lot of inherent power, but that in camera business was just submitted for the Judge in the trial of the cases to whether he wanted to do it, and I decided in my own mind, since I was really helping or not helping by getting them, if the lawyers didn't want to submit them, don't do it. It would be no advantage to anybody if you submitted them against your will because that would mean you don't have a mind disposed to agreement and compromise, but if you do submit them, why I will not disclose them to either party and I will tell you, though, whether I think there is a chance of your getting together, and that is what Judge Carter did, and the Committee recommended it that they go no further in that business. In other words, why go through the in camera proceedings if it doesn't have any opportunity to bear fruit? And if you go in there making one side, no matter who it is, to put up their figures to the Court, well, why have it? So I am going to leave it up to you all. Do you want to do that?

MR. WOODLOCK: We have no objections, Your Honor, if Counsel —

MR. STRASBURGER: Your Honor, you can see what is in our files any time with or without the consent of the other side.

THE COURT: You put the figures in here and this proceedings may be fruitful.

MR. WEST: I don't think it will be, Your Honor, in settlement.

THE COURT: Well, that is the end of the in camera proceedings. I will have you, at the conclusion of this Pre-Trial, submit your prospective figures, and then I will tell

you whether or not you have got any hope for progress or whether it is the jury.

Now, the next thing is this third category of miscellaneous matters. I really don't see any real objection to that type of discovery, and I think that should be denied, and I pass on the relevancy of that evidence at the trial.

Now, I am going further in this thing. There is a motion here for production of documents. Motion to limit depositions will be granted except as to category three mentioned heretofore. And you understand that that expressly lets you go ahead with your depositions and the commissions also with respect to any matters touching on valuations.

Separate trial is denied.

Petitioners' objections to interrogatories served on Strasburger has been taken care of with the motion to limit depositions.

Now, for discovery and production of documents. I am going to permit and order the production of the indemnity contract that was made between certain individuals and the Government of the United States, any inquiry as to others not named in that document as to their address and identity, identity and address. Other than that, no other documents sought in the motion need be produced and the motion with that exception or the contract and the inquiry as to the unnamed indemnitors, if any, is granted.

MR. WEST: May it please the Court, I would like to orally move for one condition to that order, and that is that we produce this contract or a true copy thereof for the examination of Counsel of Parcel 2 to be used in connection with this lawsuit under the orders of this Court.

THE COURT: That is right.

MR. WEST: Not to be divulged to the newspapers or to anyone not connected with this lawsuit.

THE COURT: I don't know about the newspapers, but I am going to say this, that I would be as confident as any-

thing in the world, and I have no fears that any lawyer in this room or anybody making any improper use of that, and you know that the uses are for the purpose of this lawsuit and nothing else.

MR. WEST: Certainly, Your Honor, not by the conduct of any lawyer, but by a party or parties to the suit.

THE COURT: Parties are not going to do any different than their lawyers do in this case with these documents, and they will get them for their lawyers, and they will get them for that. Now, you have got my rulings. The motion is granted except with respect to the contract and the non-signed indemnitors sharing the obligations of that contract.

Next, the reason I have got that in mind is that, as I view it, that is necessary for them to make their challenges to jurors. They are entitled to that to impeach any possible witnesses that you have got or anybody else has. If it doesn't arise as a matter of impeachment, it will not arise in the lawsuit. I will take the jury, as I told you, in this case. The jury will not have the slightest idea, and I will try the case to the best of my ability fairly and not have any reversible error. This is going to be an expensive trial, and there can't be any case, as I see it now, except for if you put on some witness that was associated with them in a close manner, but if they did, you are entitled to, and also when it goes to instructing the jury, but I will take the jury where they will have no idea, where they won't have any idea, what we are trying, just a plain, vanilla condemnation suit just like we try at every term of court, and that is that. Now, that took care of that. You will prepare — I think easier just this Pre-Trial Order to dispose of each of these motions. I don't care.

MR. WEST: Your Honor, my only objection to the Pre-Trial Order, the Pre-Trial Order will be filed of record where anybody can look at it.

THE COURT: All right. Just prepare those orders separately and I am going to say that the following motions

disposed of — I will add these remarks here to this order — defendants' motion to limit evidence, and that is taken — no, this is the defendants' motion to limit the evidence about value. I think that will be reserved until we see the materiality of it on the trial, just judgment reserved until you see the circumstances of the evidence presented. Reserved.

MR. STRASBURGER: Your Honor, if we can go back, on those categories that you mentioned, we want to take these depositions and we want to be certain they are in line with your order, and you mentioned three categories, and yet that leaves us to interpret what portion of the motions were granted. You divided it up into categories, and they don't in their motions.

THE COURT: Yes, they do in the brief.

MR. WEST: In our brief, we categorized them.

MR. BRIN: Well, in their brief, they categorized the interrogatories.

THE COURT: You are not going to have any trouble because I excluded all transactions dealing with this property prior to the day we took it, and this declaration of taking was filed in toto except merely the contract and the names of the parties to it.

MR. BRIN: But we may inquire about those of the witnesses?

THE COURT: Yes.

MR. BRIN: That is what we wanted to get clear, Your Honor.

THE COURT: Yes, indeed.

MR. WEST: May I understand that they may inquire about them to the extent of obtaining the contract and the names of those who are parties to it?

THE COURT: That is right, share the obligations to that contract. In other words, somebody who has got an

interest adverse to their position here isn't going to sit on the jury, and if some of those people take that witness stand, I am going to impeach them.

MR. WEST: It is simply the ascertainment of the names that are inquired about, and they may not call him in and ask him why he did or the extent of his interest in it?

THE COURT: No, no, wholly out, wholly out. That is a very simple ruling. That is all that comes in, prior to the declaration of taking, except, of course, your proof on market value.

Now, the defendants' motion to dismiss or abate because of the non-joinder of these parties served by mail. Now, I will overrule the motion in so far as it covers everybody but Jayson, and I want to remind Counsel for both sides here that Robert Jayson and wife, Louise Jayson, and William K. Jayson and wife, Annette Jayson, took $171,880 out of the registry of this Court upon my order upon the representation to me that they were the owners in fee simple of this land subject to leasehold estates by Jayson Manufacturing Company, Clare Dress Company of Texas, Inc., and Gall Novelty, Inc. Now, are they or aren't they the owners in fee simple of that tract?

MR. STRASBURGER: Judge, that was done before I came in the case, and it is my understanding that the mother, furnishing the money, gets 20 percent of the income and pays 20 percent of the expenses.

THE COURT: I don't think that is ownership as this Statute contemplates because it says plainly record owners and owners of interests that otherwise obtain and any contract sharing that they have got with their mother in my opinion is not such an interest as it would prevent the Government from obtaining fee simple title to this land under the proceedings had here and certainly not unless Robert Jayson and William K. Jayson and their wives —

MR. STRASBURGER: As a matter of fact, Your Honor, we came into it late, but I understand that the title is in the name of Robert, has been all along.

THE COURT: Well, these people came here and represented that they were the fee simple owners of this land.

MR. STRASBURGER: Correct.

THE COURT: They took $171,000 from the Court. Now, as I understand it, they have just got a profit sharing arrangement with their mother. Isn't that it? The fact she gave them the property doesn't mean a thing if they are going to pay her something out of the —

MR. STRASBURGER: They don't have anything in writing. I asked them about that. But the income tax returns do.

THE COURT: I overrule the motion. In view of the record here, I find that Robert Jayson and wife, Louise Jayson, and William K. Jayson and wife, Annette Jayson, are fee simple owners of the land subject to the leases just mentioned.

MR. STRASBURGER: The mother is 20 percent owner.

THE COURT: Yes. They bought it with the provision she gets 20 percent of the proceeds out of the property.

MR. STRASBURGER: No. She owns the property. That is the way the income tax returns are. I haven't seen them. I think it would make her an equitable owner. She got her gain and stood her losses. I don't know.

MR. WOODLOCK: Your Honor, we can make her a party if they will waive service. If she has been prejudiced by the delay —

THE COURT: I take it they gave her 20 percent of this $171,800.

MR. STRASBURGER: It would be my guess. They should if they didn't.

THE COURT: Do you want to file anything here showing her ownership? In other words, what is before me with this motion is that your clients have said that they have owned the fee simple to it. Now, if they don't own

the fee simple, if they want to amend their answer and join her in it and show that they don't own but 80 percent of this property and show that she got her share of it under arrangements that would amount to an equitable title in her, I don't know from what you have said whether she had equitable title or whether she didn't. I don't know what arrangements she had with them.

MR. STRASBURGER: Judge, I don't represent her. All I have done is talk with these two fellows that I do represent, and I have tried to bring all of the facts as near as I could to the attention of everybody.

THE COURT: Well, I will find that she doesn't own any of the property, then, and overrule this motion on the statement of her children. Go ahead. Request for leave to file first amended original answer is granted.

Now, incidentally — just a minute.

(Discussion off of the record.)

THE COURT: Paragraph 4, you move to strike it?

MR. WEST: Yes, sir.

THE COURT: It is stricken. All of the rest of it is proper.

MR. WOODLOCK: Five is evidentiary, Your Honor.

THE COURT: I don't mind that. I have just stricken Paragraph 4.

MR. STRASBURGER: Judge, could I be excused just a minute?

THE COURT: Let's give everybody a recess. Would you like to have a coffee break?

(Recess.)

THE COURT: How many experts for each defendant? We are down for that. How many experts do you want?

Just a minute.

(Discussion off of the record.)

THE COURT: Instead of the number of experts will be so many and rebuttal witnesses will be permitted in the discretion of the Court, I will strike that and put in there the names of the expert witnesses for all parties will be exchanged not later than five days from the date of this order so that you will provide each with a list of who they are under this authority I have cited. That will leave you time enough.

(Discussion off of the record.)

THE COURT: When do you want them set?

MR. STRASBURGER: We can take them one a day. It will be all right with me more frequently, anyway.

(Discussion off of the record.)

THE COURT: 1:30 tomorrow depositions are set.

(Discussion off of the record.)

I, Richard Allen Ward, certify that during the Pre-Trial of the foregoing styled and numbered cause, I was the official stenotype reporter and took in stenotypy the proceedings of said Pre-Trial, and have transcribed the same as shown by the above and foregoing 19 pages, and that said transcript is true and correct.

THIS 19th day of August, 1965.

RICHARD ALLEN WARD

Official Court Reporter,
Northern District of Texas

STATE OF TEXAS }
COUNTY OF DALLAS }

Subscribed and sworn to before me by Richard Allen Ward on this the 19th day of August, A.D. 1965.

CECIL J. TOWRANCE

Cecil J. Towrance, Notary Public
in and for Dallas County, Texas.

B-1

APPENDIX B

FASTEN PLAT, ETC. HERE	GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE WASHINGTON 25, D. C. **SITE PROPOSAL**	SYNOPSIS NUMBER #-20

In response to your invitation for offers of property for the Federal building at the location shown below, the undersigned hereby proposes ~~to sell or donate to the United States of America, for the amount specified~~, the following described land (clear building space, exclusive of sidewalks, etc.)

LOCATION (City, county and state)	PRICE OF LAND
Dallas, Dallas County, Texas	See attached proposal

DESCRIPTION OF LAND

See Attached Proposal

and as shown by the attached plat on which is indicated the correct widths of public streets and alleys abutting the site; together with all of the improvements thereon, except the following

See Attached Proposal

SIGNATURE	Check whether ☐ OWNER OR ☐ AGENT	DATE SIGNED
See Attached Proposal	See Attached Proposal	Jan. 23, 1957

ADDRESS (Post office, street, number, city and state)

See Attached Proposal

NAME OF THE HOLDER OF THE MORTGAGE ON THE ABOVE PROPERTY (OR HIS LOCAL REPRESENTATIVE) IS

See Attached Proposal

THE MOST RECENT ASSESSED VALUATIONS OF RECORD ON THE ABOVE DESCRIBED PROPERTY ARE

LAND	IMPROVEMENTS	TOTAL	ASSESSMENT DATE
	See Attached Proposal		

~~The foregoing proposal is submitted in accordance with, and subject to, the terms and conditions of said invitation or advertisement, and the "Conditions" governing purchase of Federal building sites as set forth on the reverse of this form.~~

IMPORTANT NOTICE TO BIDDERS

1. There must be attached to the proposal a plat showing the dimensions of the property offered and widths of all abutting streets and alleys. Such dimensions shall describe clear building space exclusive of sidewalks.
2. If the vendor desires to reserve any building or other improvements on the site it is important that he describe the same in the above space provided for that purpose, otherwise this proposal is for land, together with all the buildings and improvements thereon.
3. ~~The "Conditions" on the reverse of this proposal are incorporated by reference in the proposal. As these "Conditions" constitute important contractual provisions setting forth in detail the obligations of the bidder, it is of extreme importance that they be carefully read prior to the submission of the proposal.~~

(Over)

GSA FORM 186
August 1950
(Formerly Form 2-72-A)

CONDITIONS

1. PRICE ADJUSTMENT IF LESS AREA. In the event that the land conveyed has less area (clear building space, exclusive of sidewalks, etc.) than indicated by the dimensions given in the description furnished in the proposal, an equitable reduction shall be made in the amount of the purchase price. The foregoing provisions of this paragraph shall not obligate the United States to conclude the purchase of a lesser area than that described in the proposal.

2. TITLE. Within 30 days from the date of the letter of acceptance, and without additional expense to the United States, the vendor shall cause to be executed and delivered all abstracts or certificates of title, plats, maps, official certifications, affidavits, evidences of title, deeds of conveyance, etc., necessary in the opinion of the Attorney General, to convey to the United States of America a valid and satisfactory title to said land clear of all mineral rights, easements, restrictions, leases, judgments, taxes, and assessments, existing or inchoate, liens, or incumbrances of any sort, at the date of the transfer of the title to the United States. The vendor shall so furnish said title papers, etc., as to make the same in every respect satisfactory to the Attorney General of the United States. The deed to the United States of America shall be typewritten, and the consideration stated in such deed shall be the actual consideration paid by the Government, irrespective of any consideration or payment from other sources to the vendor. (It is not necessary to discharge liens and mortgages until the transfer of title to the Government is about to be made.)

3. SURVEY. Within 30 days from the date of the letter of acceptance, and without expense to the United States, the vendor shall furnish a careful survey of said site, based on the local land records as required by 'Specification for Vendor's Survey' (Form No. 8835-A); have the surveyor set permanent stone or concrete markers at each corner, or bound, of the land; have the description in the deed to the United States conform to the actual measurements and refer to the monuments utilized by the surveyor. Such survey, etc., shall be first submitted to the General Services Administration at the earliest practicable date, and all required corrections therein including the setting of said monuments shall be promptly made to the satisfaction of the Administrator of General Services or his duly authorized representative.

4. CONTINUATION OF ABSTRACTS, ETC. Immediately preceding the payment of the purchase money, the vendor shall have said abstracts or certificates of title continued down to, and including, the date of the recording of the deeds, etc., to the United States and show such recordations and also have appended to said abstracts or certificates of title the proper official certification showing that all taxes, special assessments, existing or inchoate charges, liens, judgments, conveyances, mortgages, or incumbrances of any character whatsoever, standing as a charge against any part of said site at, or before, the date of recordation of said deeds to the United States, etc., have been duly paid, discharged, and released of record, so that an absolutely clear title to the whole of said site without restriction or reservation of any nature, shall then be vested in the United States; all without additional expense to the United States.

5. CONDEMNATION. That in case, in the opinion of the Administrator of General Services, it becomes desirable to condemn the lands described in this proposal, the contract resulting from acceptance of this proposal may be entered in the condemnation proceedings as a stipulation for the purpose of fixing the contract price as fair, just and reasonable consideration for the lands described, and providing that any and all awards of just compensation that may be established by judgment in the court in behalf of any and all persons, corporations and associations other than the vendor, shall be deductible from the said contract price, and the vendor consents to such judgments, if any, and agrees to accept the balance of said contract price remaining after the payment and deduction therefrom of the amount or amounts of any and all such awards, as full and just compensation for the taking of the described lands.

6. DEDICATIONS AND VACATIONS. The vendor shall furnish promptly upon the request of the United States Attorney, such duly authenticated evidence as may be required by the Attorney General satisfactorily to establish that the public alleys and roadways abutting the site, as shown in the proposal, have been duly dedicated to the public and legally accepted by the proper authorities of the municipality in which said site is situated, and that the same have been actually opened and will be kept open and improved as are other public streets and alleys in said municipality. In the event that any such alleys or, roadways have not been so dedicated to the public and legally accepted as aforesaid, the vendor agrees that he will cause the same to be duly dedicated and legally accepted. Also, should the vacation of any alley, passageway, or street, or portion of such alley, passageway, or street, now lying within the area comprising the entire site, be required to vest in the United States a valid unencumbered title to the entire site, the vendor must procure such vacation and furnish similar evidence of the due accomplishment thereof, without expense to the United States.

7. CONDITIONS ENTIRE SITE TO BE ACQUIRED. If the proposed site is composed of more than one parcel of land, the General Services Administration shall be under no obligation to acquire any parcel until the Attorney General shall have rendered a favorable opinion on the title to all the parcels embraced in the entire tract to be acquired; and, where any portion of the site is to be acquired by condemnation proceedings, the General Services Administration shall not be required to conclude the purchase of any parcel until the award in condemnation shall have been rendered and found to be in an amount satisfactory to that Administration.

8. CLEARING OF SITE: (a) Upon thirty (30) days' notice in writing so to do after title to the land comprising the site has vested in the United States, the vendor shall be obligated, without expense to the United States and to the satisfaction of the custodian of the site (1) if buildings or other improvements have been reserved by the vendor, to remove the same down to ground level; and (2) if buildings or other improvements have been reserved by the vendor or if the site is unimproved, to remove all tracks, poles and wires (overhead or underground), all gas, water and heating pipes, ducts, etc., conduits, ditches and sewers crossing the site or, in lieu of removal thereof, to plug at the lot lines any such pipes, ducts, conduits or sewers.

(b) Immediately after title to such land has vested in the United States (or, if removal of reserved buildings or other improvements shall thereafter create a dangerous condition, then immediately after such condition is created), the vendor shall, without expense to the United States, rail off or cover, to the satisfaction of the custodian of the site, all open wells, cellars or other excavations on the site.

(c) Before payment is made to the vendor, the vendor shall furnish a good and sufficient bond (in such amount as the United States Attorney may deem ample) to guarantee to the United States the performance of all of the obligations of the vendor as set forth in subparagraphs (a) and (b) of this paragraph 8.

(d) If the vendor shall fail to comply with any of the obligations set forth in subparagraphs (a) and (b) of this paragraph 8, the Government, if deemed in its interests by the Administrator of General Services or his duly authorized representative, may perform the work, sell or dispose of any buildings or other improvements, or any portion thereof, and collect from the vendor or the obligors on the bond referred to in subparagraph (c) of this paragraph 8 all costs incurred in excess of the proceeds of any such sale.

9. GROUND RENTAL. In the event that the buildings on the land are reserved to the vendor, a reasonable ground rental shall be paid by the vendor to the United States for the period from the date title to the land is vested in the United States until the date of service of the thirty (30) day notice to clear the site or until the site has been cleared by the vendor, whichever date is the earlier.

10. RENTAL - LAND AND BUILDINGS. When buildings and improvements are not reserved by the vendor a reasonable rental for the land and buildings shall be paid by the vendor to the United States for the period from the date title to the land is vested in the United States until the date of vacation of the premises.

11. ATTEMPTED VARIATIONS. That no variation or departure from the terms of the contract of which these 'Conditions' form a part will be binding on the United States unless previously agreed upon in writing by the Administrator of General Services or his duly authorized representative.

12. The vendor represents and it is a condition of acceptance of this proposal that no Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or agreement, or to any benefit that may arise thereupon; but this provision shall not be construed to extend to the contract if made with a corporation for its general benefit.

GSA-WASH DC 52-9046

Dallas, Texas
January 23, 1957

PROPOSAL

1. PURPOSE OF PROPOSAL

This proposal is submitted to the General Services Administration pursuant to the next to the last paragraph of its advertisment, published on January 1, 1957, and succeeding dates, with respect to a proposed federal office building at Dallas, Texas.

2. NATURE OF PROPOSAL

This proposal is submitted to enable General Services Administration to avail itself of the opportunities for estimated savings of $5,662,500.00 available in the continued use and remodelling of their presently owned building at 1114 Commerce Street, in City Block 63, Dallas, Texas, and to insure such agency the purchase of adjoining property for new and additional buildings or building at a guaranteed price. This adjoining property will have to be acquired by or on behalf of the Federal Government by negotiation as described in the letter of guaranty attached hereto or by condemnation proceedings. None of the parties submitting this proposal owns any of the parcels of land to be acquired or any interest therein, or has authority as agent or otherwise to sell, offer for sale or donate such properties.

3. ADVANTAGES OF PROPOSAL

Some of the advantages inherrent in the selection of one of the sites herein proposed are as follows:

1. Remodelling and continued use of the present government building at 1114 Commerce Street will save the taxpayers an estimated $5,662,500.00. This fact is substantiated by a careful engineering survey made at your suggestion by the outstanding engineering firm of Frank W. Chappell.

2. The entire central downtown area and other commercial interests would likely share more equitably in the advantages generated by the Dallas Federal Center and its personnel because of this location. Practically every major business in Downtown Dallas is located within twenty-five hundred feet of the location proposed.

3. There are ample parking facilities within short walking distance and more are planned.

4. Available public transportation and traffic flow make the site proposed most accessible to all residential areas in which government employees live or are likely to live.

5. Regional accessibility from all directions is insured by a fine network of highways and rail and bus facilities which are most convenient to the site.

6. Existing public utilities at the site are ample for the building proposed and selection of the proposed site would not result in expense to the City of Dallas.

7. Development plans for the section of the City of Dallas concerned are such that the proposed location will be in the very center of a most attractive and accessible area.

These advantages have been brought out in greater detail in a formal brochure previously presented to you, a copy of which is attached hereto and made a part hereof.

4. DESCRIPTION OF PROPERTY

Three different size tracts, each of which adjoins the present Government Building at 1114 Commerce Street, are hereby proposed for consideration. These tracts are described as follows:

TRACT ONE

A tract of land adjoining the United States Government's building at 1114 Commerce Street on the West, and extending westerly therefrom along the South line of Commerce Street for a distance of 225 feet, then southerly along the established property line 200 feet to the North line of Jackson Street, then easterly along the North line of Jackson Street 210 feet to the said Government building, the East boundary of said tract being the same as the West line of the Government's property, being

Lots 6, 7, 8, 9, 10, 11 and 14 in Block 63 of the City of Dallas, Texas, and containing approximately 43,500 square feet of land.

TRACT TWO

A tract of land adjoining the United States Government's building at 1114 Commerce Street on the West, and extending westerly therefrom along the South line of Commerce Street for a distance of 405 feet, then southerly along the established property line 200 feet to the North line of Jackson Street, then easterly along the North line of Jackson Street 390 feet to the said Government building, the East boundary of said tract being the same as the West line of the Government's property, being Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16 and 17 in Block 63 of the City of Dallas, Texas, and containing approximately 79,500 square feet of land.

TRACT THREE

A tract of land adjoining the United States Government's building at 1114 Commerce Street on the West, and extending westerly therefrom along the South line of Commerce Street for a distance of 455 feet to the East line of Poydras Street then southerly along the East line of Poydras Street 200 feet to the North line of Jackson Street, then easterly along the North line of Jackson Street 440 feet to the said Government building, the East boundary of said tract being the same as the West line of the Government's property, being Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16 and 17 in Block 63 of the City of Dallas, Texas, and containing approximately 89,500 square feet of land.

5. GUARANTEED COST OF TRACTS.

The proponents of this proposal hereby undertake to guarantee that the parcels of land comprising each tract described above can be acquired by the Federal Government by negotiation as described in the letter of guaranty attached hereto or by condemnation for an aggregate price for each tract as set out below:

Cost of Tract One is guaranteed not to exceed $385,000.00.

Cost of Tract Two is guaranteed not to exceed $1,655,000.00.

Cost of Tract Three is guaranteed not to exceed $2,000,000.00.

These guaranteed costs represent official Dallas Real Estate Board appraisals plus approximately ten percent. Experience has shown that the cost of

property acquired by the Government through condemnation proceedings has rarely exceeded ten percent of local real estate board appraisals. Copies of these appraisals covering each parcel of land in the three tracts are attached.

In addition to the ten percent margin included in the above guaranteed costs, there is attached hereto a letter of guaranty signed by the proponents hereof in the amount of $200,000.00 to cover any amount up to that sum, but limited thereto, which may have to be paid by the Federal Government to acquire any one of the described tracts of land in excess of the guaranteed amount shown opposite each tract above.

It is our understanding that the precise form of this guarantee will be worked out between counsel in the event that the General Services Administration indicates its interest in this proposal, but the availability of a collectible and valid guarantee is hereby assured.

6. COOPERATION

The proponents hereof assure the General Services Administration of their full cooperation in working out any details of the acquisition of the property proposed herein and the erection of the Federal Center thereon which they as citizens of Dallas may properly perform.

7. ATTACHMENTS HERETO

Annex 1. Letter of Guaranty described in Section 5 above.

Annex 2. Photostatic copy of a letter from the Director of Planning of the City of Dallas.

Annex 3. Plat of property proposed.

Annex 4. Photostatic copies of official Dallas Real Estate Board appraisals covering each parcel of land covered in this proposal.

GUARANTY

For and in consideration of the selection and acquisition by the General Services Administration, an agency of the United States Government, of one of the sites proposed for the erection of the Dallas Federal Center Building in a proposal of even date herewith submitted by the undersigned, we hereby guarantee, subject to the limitations and conditions listed below, that the acquisition cost of each of the tracts of land proposed as a site for said building will not exceed the amount set opposite each:

Guaranteed cost of Tract 1	$ 885,000.00
Guaranteed cost of Tract 2	1,665,000.00
Guaranteed cost of Tract 3	2,000,000.00

This guaranty is to insure the General Services Administration against excess cost of acquisition of any one of the above tracts of land, up to, but not exceeding, the sum of Two Hundred Thousand Dollars ($200,000.00) over the cost guaranteed above. The aggregate amount of this guaranty is specifically limited to a maximum of the lesser of (1) Two Hundred Thousand Dollars ($200,000.00), or (2) the excess of the cost of any one of the above tracts of land acquired over the above stated guaranteed cost, and the liability hereunder of each of the undersigned is specifically limited to that percentage respectively set opposite the name of each of the undersigned of said maximum aggregate amount of this guaranty.

This guaranty will be valid only if no parcel of land covered by the proposal of which this instrument is a part is purchased by General Services Administration at a price greater than the Dallas Real Estate Board Appraisal attached hereto covering such parcel except in accordance with a final judgment of a court of competent jurisdiction entered in a condemnation suit instituted by it to acquire such parcel.

While this guaranty shall be a continuing guaranty upon the conditions and under the limitations herein set forth, unless the said General Services Administration shall have acquired legal title to one of the aforesaid three tracts for the aforesaid purpose within three years from the date hereof, this guaranty shall on the third anniversary of the date hereof become null and void and of no further force and effect.

Witness our hands at Dallas, Texas, this the 23rd day of January, 1957.

Signature - Percentage of Guaranteed Aggregate Amount.

W. W. Overton, Jr. 12½

Annex 1.

L. F. Corrigan — 17½%

C. C. Simmons — .06¼%

E. V. McCright — 10%

R. W. Baxter — 6¼%

H. L. Moses — 2½%

Eugene Kahn Sanger — 2½%

Cecil M. Higginbotham — 5%

Drake McKee — 2½%

Trammell Crow — 2½%

Justin S. McCarty — 2½%

John D. Murchison — 12½%

H. D. Lowry, Jr. — 2½%

Sam R. Bloom — 15%

Annex 5. Copy of brochure previously submitted.

Respectfully submitted,

W. A. Carter, Jr.

L. F. Corrigan

C. A. Sammons

E. V. McCright

R. W. Baxter

M. S. Moses

Eugene Kahn Sanger

Cecil M. Higginbotham

Drake McKee

Trammell Crow

Justin S. McCarty

John D. Murchison

L. D. Lowry, Jr.

John R. Bloom

APPENDIX C

December 24, 1957

Colonel Karl E. Wallace
Regional Commissioner
General Services Administration
1114 Commerce Street
Dallas 2, Texas

Dear Sir:

The undersigned (herein called Guarantors) in order to induce the United States of America (herein called Government) to select and acquire the hereinafter described property as a site for a Federal Building and in consideration of the selection and acquisition of said property for such purpose, hereby guarantees, covenants and agrees as follows:

1. The property proposed herein is described as follows: A tract of land adjoining the United States Government's building at 1114 Commerce Street on the West, and extending Westerly therefrom along the South line of Commerce Street for a distance of 300 feet, thence Southerly along the established South property line of Lots 5 and 15, 200 feet to the North line of Jackson Street, thence Easterly along the North line of Jackson Street 285 feet to the said Government building, the East boundary of said tracts being the same as the West line of the Government's property, and being Lots 5, 6, 7, 8, 9, 10, 11, 14 and 15 in City Block No. 63 of the City of Dallas, and containing 58,500 square feet of land, more or less.

2. Guarantors shall and do hereby jointly and severally guarantee that the acquisition cost of said property shall not exceed the sum of ONE MILLION DOLLARS ($1,000,000.00). In the event the acquisition cost exceeds One Million Dollars, Guarantors shall pay the Government, or at the direction of the Government, all sums in excess of One Million Dollars necessary to acquire full fee simple title to said property.

3. The Government shall acquire the property by purchase from the owners thereof or by condemnation. If acquired by purchase, the Government shall not pay more for the following described lots than the amount set opposite each lot, without receiving the prior approval of Guarantors:

Lot No. 5	$195,000.00	Lot No. 9	$102,500.00
Lot No. 6	$190,000.00	Lot No. 10	$100,000.00
Lot No. 7	$180,000.00	Lot No. 11	$180,000.00
Lots No. 8 & 14	$100,000.00	Lot No. 15	$ 90,000.00

For the purpose of considering any proposals of the Government to purchase at a price in excess of those in this paragraph above stated, Guarantors shall appoint from their number a committee of four, who shall be authorized to act for and on behalf of all the Guarantors, and approvals given by said Committee shall be binding on all Guarantors. Names of the Members of said Committee shall be furnished Government in writing.

Subject to the limitations of this paragraph, Government shall have a completely free hand in the acquisition of said property and in making all decisions in connection therewith, including but not limited to the price and manner of acquisition, Government shall, however, use its best efforts to acquire the property at the lowest, fair and reasonable price.

4. In the event of condemnation, Guarantors shall not be required to bear the cost of the condemnation proceedings.

5. Guarantors shall pay any amount due hereunder as, when, to the parties, and in the manner directed by the Government.

6. Guarantors shall execute and deliver such additional agreements, instruments and guarantees as required by the Government to carry out the provisions and intent of this instrument, and the availability of a collectable and valid guaranty is hereby assured.

7. This contract and the covenants, agreements and guarantees herein contained shall be binding on the Guarantors,

jointly and severally, and their heirs, assigns, administrators, executors, and legal representatives.

8. While this guaranty shall be a continuing guaranty, upon the conditions and under the limitations herein set forth, unless the Government shall have contracted to acquire legal title to the said property or has commenced a condemnation suit for the purpose of acquiring said property within two years from the date hereof, this guaranty shall on the second anniversary date hereof become null and void and of no further force and effect.

WITNESS our hands at Dallas, Texas, this the 24th day of December, 1957.

Trammel Crow	W. W. Overton, Jr.
Justin S. McCarty	L. F. Corrigan
John D. Murchison	C. A. Sammons
Sam R. Bloom	E. V. McCright
W. C. Stevens	R. W. Baxter
M. E. Moses	Eugene Kahn Sanger
Cecil M. Higginbotham	Drake McKee

APPENDIX D

COURT OF CLAIMS

In the UNITED STATES COURT OF CLAIMS

No. 332-66

ROBERT JAYSON, et al.

v.

THE UNITED STATES

Before COWEN, Chief Judge, LARAMORE, DURFEE, DAVIS, COLLINS, SKELTON, and NICHOLS, Judges.

ORDER

This case comes before the court on defendant's motion, filed November 21, 1966, to dismiss or for summary judgment. Upon consideration thereof, together with the opposition thereto, without oral argument, it is concluded that plaintiffs' alleged claim is barred by the doctrine of *res judicata* by the prior proceedings in the United States District Court for the Northern District of Texas and the Court of Appeals for the 5th Circuit. See *Jayson v. United States*, 294 F. 2d 808 (5th Cir. 1961).

IT IS THEREFORE ORDERED that defendant's motion for summary judgment be and the same is granted and the petition is dismissed.

BY THE COURT

Wilson Cowen
Chief Judge

APPENDIX E

COURT OF CLAIMS

In the
UNITED STATES COURT OF CLAIMS

622-52 MARTIN VON CARSTANJEN
277-63 WEST VIRGINIA NORTHERN RAILROAD COMPANY
350-63 THEODORE MORSE AND CLAIRE MORSE
248-65 JOHN P. KING
332-66 ROBERT JAYSON, et al.
251-67 JAMES L. HAMLIN
406-67 LAWRENCE ELLIS MYERS

v.

THE UNITED STATES

Before COWEN, Chief Judge, LARAMORE, DURFEE, DAVIS, COLLINS, SKELTON and NICHOLS, Judges, except that Judge DAVIS took no part in the consideration and decision of No. 622-52.

ORDER

These cases come before the court on motions to vacate or set aside judgments, for oral argument, for reconsideration, to alter judgment, for rehearing, and for further relief under Rules 68 and 69 of the rules of this court and, on consideration thereof,

IT IS ORDERED this 14th day of June, 1968, that said motions be and the same are denied as follows:

622-52 Martin von Carstanjen. Plaintiff's motion to vacate judgment entered for failure to prosecute and plaintiff's motion for oral argument.

277-63 West Virginia Northern Railroad Company. Plaintiff's motion for reconsideration and to alter judgment.

350-63 Theodore Morse and Claire Morse. Defendant's motion for reconsideration.

248-65 John P. King. Defendant's motion for reconsideration.

332-66 Robert Jayson, et al. Plaintiffs' motion to set aside summary judgment under Rule 69(b).

251-67 James L. Hamlin. Defendant's motion for reconsideration.

406-67 Lawrence Ellis Myers. Plaintiff's motion for rehearing and altered or amended order.

BY THE COURT

/s/ WILSON COWEN

Wilson Cowen
Chief Judge